

AMENDED IN SENATE JUNE 19, 2015

AMENDED IN SENATE MAY 21, 2015

**SENATE BILL**

**No. 54**

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**Introduced by Senator Runner**

December 19, 2014

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An act to amend Section 3003.5 of, and to add Section 3003.51 to, the Penal Code, relating to sex offenders, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 54, as amended, Runner. Sex offenders: residency restriction: petition for relief.

Existing law, as amended by Proposition 83 of the November 7, 2006, statewide general election, prohibits any person who is required to register pursuant to the Sex Offender Registration Act from residing within 2,000 feet of any public or private school, or park where children regularly gather.

This bill would require that the 2,000-foot residency restriction be measured by the shortest practical pedestrian or vehicle path. The bill would limit the residency restriction to persons convicted of specified offenses. The bill would permit a person who is subject to the residency restriction to petition the superior court of the county within which he or she resides for relief from the requirement. The bill would provide that original jurisdiction for the petition would lie with the appellate division of the superior court in which the petition is filed. The bill would require the petitioner to establish by ~~clear and convincing~~ *a preponderance of the evidence* that there is a pervasive lack of compliant housing in the county and that a majority of sex offenders are unable to comply despite good faith efforts. The bill would require, if relief is

granted, that the relief be narrowly crafted in order to substantially comply with the intent of the people in approving the residency restriction. The bill would prohibit a subsequent petition from being heard if relief is granted or denied, unless the petitioner establishes in the petition, to the satisfaction of the court, that circumstances regarding compliant housing have changed, as provided.

Proposition 83 permits the Legislature, by a vote of  $\frac{2}{3}$  of the membership of each house and in accordance with specified procedures, to amend the provisions of the act.

By amending Proposition 83, this bill would require a  $\frac{2}{3}$  vote.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 3003.5 of the Penal Code is amended to  
2 read:

3 3003.5. (a) Notwithstanding any other law, when a person is  
4 released on parole after having served a term of imprisonment in  
5 state prison for any offense for which registration is required  
6 pursuant to Section 290, that person may not, during the period of  
7 parole, reside in any single-family dwelling with any other person  
8 also required to register pursuant to Section 290, unless those  
9 persons are legally related by blood, marriage, or adoption. For  
10 purposes of this section, “single-family dwelling” shall not include  
11 a residential facility that serves six or fewer persons.

12 (b) (1) Notwithstanding any other law, it is unlawful for any  
13 person convicted of any of the offenses enumerated in Section  
14 667.61 and for whom registration is required pursuant to Section  
15 290 to reside within 2,000 feet of any public or private school, or  
16 park where children regularly gather. The 2,000-foot residency  
17 restriction shall be measured by the shortest practical pedestrian  
18 or vehicle path.

19 (2) Any person subject to the residency restriction imposed  
20 pursuant to paragraph (1) may, if compliance is not reasonably  
21 possible within his or her county, seek relief pursuant to Section  
22 3003.51.

(c) Nothing in this section shall prohibit municipal jurisdictions from enacting local ordinances that further restrict the residency of any person for whom registration is required pursuant to Section 290.

SEC. 2. Section 3003.51 is added to the Penal Code, to read:

3003.51. (a) Any person prohibited pursuant to Section 3003.5 from living within 2,000 feet of any public or private school, or park where children regularly gather, may seek relief from those restrictions if he or she cannot comply with the restriction because of the unavailability of compliant housing within his or her county of domicile.

(b) Any person seeking relief under this section may file a petition with the superior court of the county in which he or she resides. Notice of the petition shall be timely served on the state parole authority or other entity enforcing the subject sex offender residency restrictions.

(c) Notwithstanding any other law, original jurisdiction for any petition filed pursuant to this section shall lie with the appellate division of the superior court in which the petition is filed. *The court may consolidate all pending petitions.*

(d) The appellate division of the superior court in which the petition is filed pursuant to this section may grant the petition if the petitioner establishes by ~~clear and convincing~~ *a preponderance of the evidence*, and the court finds, both of the following:

(1) There is a pervasive lack of compliant housing within the petitioner's county of domicile.

(2) As a result of the pervasive lack of compliant housing, a majority of sex offenders subject to the 2,000-foot residency restriction have, despite good faith efforts, been unable to find compliant housing within the county.

(e) Relief granted pursuant to this section shall apply uniformly to all sex offenders convicted of any of the offenses enumerated in Section 667.61 and for whom registration is required pursuant to Section 290 in all communities within the county that are subject to the 2,000-foot residency restriction and shall, therefore, be narrowly crafted in order to substantially comply with the intent of the people in approving the residency requirements of Section 3003.5.

(f) If relief is granted or denied pursuant to this section, no subsequent petition shall be heard, unless the petitioner or

1 petitioners establish in the petition, to the satisfaction of the court,  
2 both of the following:

3 (1) There has been a change of circumstances based upon a  
4 substantial decline in the availability of compliant housing.

5 (2) There has been a corresponding increase in the percentage  
6 of sex offenders who are unable to comply with the residency  
7 restriction due to the change of circumstances described in  
8 paragraph (1) since the court ruling on the prior petition.

9 SEC. 3. This act is an urgency statute necessary for the  
10 immediate preservation of the public peace, health, or safety within  
11 the meaning of Article IV of the Constitution and shall go into  
12 immediate effect. The facts constituting the necessity are:

13 In order to protect the public at the earliest possible time, it is  
14 necessary that this act take effect immediately.